

UNITED STATES DISTRICT COURT

for the
Western District of Washington

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)
Target Residence 3 and Target Vehicle 2, more fully
described in Attachments A1-A2

Case No. MJ20-095

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

Target Residence 3 and Target Vehicle 2, more fully described in Attachments A1-A2

located in the Western District of Washington, there is now concealed (identify the person or describe the property to be seized):

See Attachment B, incorporated herein by reference.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
21 U.S.C §§ 841(a)(1) & 846	Possession and Distribution of Controlled Substances

The application is based on these facts:

- ☒ See Affidavit of Special Agent Eric Rodenberg, continued on the attached sheet.

☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

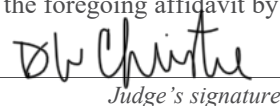
Pursuant to Fed. R. Crim. P. 4.1, this warrant is presented: ☒ by reliable electronic means; or: ☐ telephonically recorded.


Applicant's signature

Eric Rodenberg, DEA Special Agent
Printed name and title

- ☐ The foregoing affidavit was sworn to before me and signed in my presence, or
- ☒ The above-named agent provided a sworn statement attesting to the truth of the foregoing affidavit by telephone.

Date: 02/27/2020


Judge's signature

City and state: Tacoma, Washington

David W. Christel, United States Magistrate Judge
Printed name and title

1 STATE OF WASHINGTON)
 2) ss
 3 COUNTY OF KING)

4 **AFFIDAVIT**

5 I, Eric Rodenberg, a Special Agent with the Drug Enforcement Administration,
 6 United States Department of Justice, being first duly sworn on oath, depose and state as
 7 follows:

8 **AFFIANT BACKGROUND**

9 1. I am an “investigative or law enforcement officer of the United States”
 10 within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of
 11 the United States who is empowered by law to conduct investigations of, and to make
 12 arrests for, offenses enumerated in Title 18, United States Code, Section 2516.

13 2. I am a Special Agent of the United States Department of Justice, Drug
 14 Enforcement Administration (“DEA”), and have been so employed since August 2019. I
 15 am currently assigned to the DEA Seattle Field Division, Tacoma Resident Office.

16 3. I received 16 weeks of specialized drug law enforcement training at the
 17 DEA training academy in Quantico, Virginia, from August 2019 to December 2019. The
 18 training curriculum covered all aspects of drug investigations, including identification of
 19 controlled substances, physical and electronic surveillance, utilization of confidential
 20 sources, interview techniques, undercover operations, financial investigations, and the
 21 general operation of drug trafficking organizations.

22 4. While working as a Special Agent, I have been involved in the
 23 investigation of individuals and organizations involved in the manufacture, transportation
 24 and distribution of controlled substances. I have participated in the execution of search
 25 warrants for violations of federal and state drug laws. I have conducted surveillance
 26 operations and have become familiar with the methods used by individuals engaged in
 27 the manufacture, transportation and distribution of controlled substances. I have also
 28 consulted with other Special Agents that have monitored informant conversations with

1 drug traffickers, and have monitored drug-related conversations between drug traffickers
2 as part of court-authorized interception of wire communications. In light of the
3 foregoing, I am familiar with the manner in which illegal drugs are manufactured,
4 transported, stored, and distributed; the methods of payment for such drugs; and the
5 methods of laundering of drug proceeds.

6 5. Prior to working for the DEA, I was employed with the Kent Police
7 Department in Kent, Washington. I was assigned to the patrol division from June 2018 to
8 August 2019. While working at Kent PD, I came in contact with individuals using and
9 selling drugs on a daily basis. I became familiar with the different tactics used to conceal
10 drugs as well as the different methods used to transport and speak about drugs.

11 6. Prior to working with the Kent Police Department, I was employed with the
12 Missouri State Highway Patrol ("MSHP") from July 2013 to May 2018. While working
13 with the MSHP I received over 1,400 hours of specialized law enforcement training at the
14 MSHP training academy. The curriculum covered subjects such as investigative skills,
15 interview and interrogation techniques, enforcement of various laws, building searches,
16 firearms marksmanship, and physical training. Following the academy, I enrolled in the
17 Drug Recognition Expert ("DRE") program, and was trained to identify drugs and the
18 physical symptoms associated with their use.

19 **PURPOSE OF AFFIDAVIT**

20 7. This affidavit is submitted in support of an application pursuant to Federal
21 Rule of Criminal Procedure 41 for a search warrant to search the following:

22 a. **Target Residence 3:** 3703 Auburn Way S., Apartment G-101,
23 Auburn, Washington, 98092, as more fully set forth in Attachment A-1, which is
24 incorporated herein by reference.

25 b. **Target Vehicle 2:** One green Dodge Magnum with white racing
26 stripes on its back, Washington license BPB0137, as more fully set forth in Attachment
27 A-2, which is incorporated herein by reference.
28

1 8. As set forth below, I submit that there is probable cause to believe that the
2 aforementioned locations and conveyance will contain or possess evidence, fruits, and
3 instrumentalities of violations of Title 21, United States Code, Sections 841 and 846
4 distribution and possession with intent to distribute controlled substances, and conspiracy
5 to commit these offenses). I seek authorization to search and seize items specified in
6 Attachment B, which is incorporated herein by reference.

7 **SOURCES OF INFORMATION**

8 9. During the course of this investigation, agents have received information
9 from a confidential source ("CS"), as set forth below.

10 10. The CS has been providing information and assistance to the DEA since
11 2015. The CS has a criminal history consisting of one felony burglary conviction from
12 2012, and two felony drug trafficking arrests (2006 and 2008), where no charges were
13 filed. The CS is currently providing information and assistance to the DEA in exchange
14 for monetary compensation and immigration benefits.

15 11. Since 2015, the CS has provided reliable information and assistance to the
16 DEA in numerous drug trafficking investigations. The CS has conducted more than 20
17 controlled drug purchases and provided information that was proven reliable and led to
18 the arrest and convictions of numerous drug traffickers. The CS is familiar with the
19 appearance of methamphetamine, cocaine, and heroin, and the way they are packaged,
20 transported and sold.

21 **PROBABLE CAUSE**

22 12. Agents of the DEA Tacoma Resident Office ("DEA TRO") are conducting
23 a drug-trafficking investigation. Julian GUTIERREZ-PONCE and Juan Jose VEGA-
24 FLORES have been identified as traffickers of methamphetamine and suspected fentanyl
25 pills. The following paragraphs describe the identification of GUTIERREZ-PONCE and
26 VEGA-FLORES and their respective residences, as well as controlled purchases
27 conducted during this investigation.

1 13. The facts set forth in this Affidavit are based on my own personal
2 knowledge; knowledge obtained from other individuals during my participation in this
3 investigation, including other law enforcement officers; review of documents and records
4 related to this investigation; communications with others who have personal knowledge
5 of the events and circumstances described herein; and information gained through my
6 training and experience. Because this Affidavit is submitted for the limited purpose of
7 establishing probable cause in support of the application for a search warrant, it does not
8 set forth each and every fact that I or others have learned during the course of this
9 investigation. When the statements of others are set forth in this affidavit, they are set
10 forth in substance and in part.

11 **A. Sources of Information**

12 14. During the course of this investigation, agents have received information
13 from a confidential source ("CS"), as set forth below.

14 15. The CS has been providing information and assistance to the DEA since
15 2015. The CS has a criminal history consisting of one felony burglary conviction from
16 2012, and two felony drug trafficking arrests (2006 and 2008), where no charges were
17 filed. The CS is currently providing information and assistance to the DEA in exchange
18 for monetary compensation and immigration benefits.

19 16. Since 2015, the CS has provided reliable information and assistance to the
20 DEA in numerous drug trafficking investigations. The CS has conducted more than 20
21 controlled drug purchases and provided information that was proven reliable and led to
22 the arrest and convictions of numerous drug traffickers. The CS is familiar with the
23 appearance of methamphetamine, cocaine, and heroin, and the way they are packaged,
24 transported and sold.

25 ///

26 ///

27 ///

B. Controlled Purchase of Methamphetamine in November 2019

17. On November 1, 2019,¹ the CS reported to DEA TRO agents that s/he was communicating telephonically with an unidentified male (“UM1”), who was using a Mexican telephone number. The CS reported that UM1 is a methamphetamine trafficker who was offering to sell multi-kilogram quantities of methamphetamine to the CS in the Seattle, Washington area.

18. On the same date, at the direction of Special Agent (“SA”) Jared Gibb, the CS attempted to call UM1 several times, but the calls were unanswered. A short time later, the CS received a call from a second unidentified male (“UM2”). SA Gibb, who is fluent in Spanish, monitored and recorded the call.² During the call, the CS spoke in Spanish with UM2 and arranged to meet UM2 the following week in the Seattle/Tacoma area to get a sample of methamphetamine.

19. On November 4, 2019, at 12:13 p.m., at the direction of agents, the CS called UM2 to arrange the “sample meeting.” The call was not answered. At 12:39 p.m., the CS received an incoming call from UM2. During the call, which SA Gibb monitored and recorded, the CS spoke with UM2 and arranged to meet UM2 at the Tacoma Mall, located at 4502 S. Steele Street, Tacoma, Washington. UM2 agreed to bring a sample of methamphetamine to the CS at that location. At 1:20 p.m., agents established surveillance in the parking lot of the Tacoma Mall.

20. At 1:32 p.m., SA Gibb and Task Force Officer (“TFO”) Robert Shaw met with the CS at a predetermined location near the Tacoma Mall. SA Gibb and TFO Shaw searched the CS’s person and vehicle for contraband, with none found. SA Gibb outfitted the CS with an audio/video recording/transmitting device. At 1:36 p.m., the CS

¹ Unless otherwise noted, all dates and times described herein are approximate.

² All of the recorded telephone calls and text messages referenced in this Affidavit occurred in Spanish and were reviewed and translated by SA Gibb.

1 placed a monitored/recorded call to UM2. During the call, the CS and UM2 confirmed
2 that they would meet in about 10 minutes at the Tacoma Mall.

3 21. At 1:43 p.m., at the direction of SA Gibb and TFO Shaw, the CS drove to
4 and parked in the parking lot of the Tacoma Mall. Constant surveillance was maintained
5 on the CS during the operation. At 1:53 p.m., the CS placed a call to UM2 that SA Gibb
6 monitored and recorded. During the call, the CS told UM2 that s/he had arrived. UM2
7 said that he was inside the mall and would come out to meet the CS.

8 22. At 1:55 p.m., TFO Shaw observed a Hispanic male, who was later
9 identified as GUTIERREZ-PONCE, walk from the entrance of the Tacoma Mall toward
10 the CS's vehicle. TFO Shaw observed that GUTIERREZ-PONCE was carrying a
11 motorcycle helmet. TFO Shaw and SA Gibb observed the CS exit his/her vehicle, and
12 greet GUTIERREZ-PONCE. SA Gibb and TFO Shaw took surveillance photographs of
13 GUTIERREZ-PONCE at that time. Both the CS and GUTIERREZ-PONCE then entered
14 the CS's vehicle.

15 23. When they entered the vehicle, SA Gibb—who monitored the meeting via a
16 monitoring/recording device—heard the CS and GUTIERREZ-PONCE discussing the
17 quality of methamphetamine. As instructed by agents prior to the meeting, the CS told
18 GUTIERREZ-PONCE that s/he may be interested in purchasing a pound or more of
19 methamphetamine from GUTIERREZ-PONCE later that day. GUTIERREZ-PONCE
20 told the CS that he had other business to do in Tacoma, and if the CS wanted to purchase
21 methamphetamine, he (GUTIERREZ-PONCE) could meet the CS in Federal Way later
22 that day. GUTIERREZ-PONCE mentioned that he could call an associate to bring the
23 methamphetamine to Federal Way for the transaction.

24 24. At 2:00 p.m., TFO Shaw and SA Gibb observed GUTIERREZ-PONCE exit
25 the CS's vehicle and walk toward a motorcycle that was parked in the mall parking lot.
26 TFO Justin Chohrach observed the license plate of the motorcycle: Washington
27 9F2142, which is registered to Julian GUTIERREZ-PONCE at an address known to
28 investigators that is located in Seattle, Washington (hereafter, "Target Residence 1"). At

1 2:02 p.m., TFO Shaw observed GUTIERREZ-PONCE depart the mall parking lot on the
2 motorcycle. Surveillance was maintained on the GUTIERREZ-PONCE.

3 25. Following the meeting between the CS and GUTIERREZ-PONCE, SA
4 Gibb and Group Supervisor (“GS”) Lance Lehnhoff maintained surveillance on the CS
5 and met the CS at a predetermined location. SA Gibb recovered the recording device
6 from the CS, and the CS handed SA Gibb a clear zip-lock bag that was tied in a knot and
7 contained a small amount of a suspected methamphetamine. SA Gibb and GS
8 Lehnhoff searched the CS’s person and vehicle for contraband, with none found. Agents
9 preserved the small amount of methamphetamine as evidence, but did not conduct a field
10 test of the substance due to the small amount.

11 26. SA Gibb and GS Lehnhoff then interviewed the CS briefly. The CS stated
12 that GUTIERREZ-PONCE had provided the methamphetamine to the CS after
13 GUTIERREZ-PONCE entered the CS’s car. The CS stated that GUTIERREZ-PONCE
14 had two cell phones, and had provided a phone number to contact him in the future: 424-
15 370-9214.

16 27. Meanwhile, agents continued surveillance of GUTIERREZ-PONCE, who
17 traveled north on Interstate 5, then west on Highway 16, before exiting at Union Avenue.
18 Surveillance of GUTIERREZ-PONCE was briefly lost in the area of S. Tyler Street and
19 S. 34th Street in Tacoma, where GUTIERREZ-PONCE conducted several counter-
20 surveillance maneuvers (for example, u-turns and quick direction changes) and
21 eventually traveled to a dead-end street at Jane Russells Way. At 2:27 p.m., TFO
22 Chohrach observed GUTIERREZ-PONCE exit the dead-end street and depart the area.

23 28. At 2:25 p.m., (just prior to GUTIERREZ-PONCE leaving the area of Jane
24 Russells Way) the CS received a text message (while in the presence of SA Gibb and GS
25 Lehnhoff) from the telephone number that GUTIERREZ-PONCE provided to the CS
26 during the meeting: 424-370-9214. The message read, “I’m going up there let me know
27 buddy.” The CS immediately placed two outgoing calls to 424-370-9214, which both
28 went unanswered.

1 29. Surveillance was maintained on GUTIERREZ-PONCE as he traveled north
2 on S. Union Avenue, where he pulled over to the side of the road and parked in an alley.
3 Agents observed that GUTIERREZ-PONCE appeared to be watching traffic and talking
4 via a bluetooth device on his motorcycle helmet.

5 30. At 2:31 p.m., the CS received an incoming call from 424-370-9214, which
6 SA Gibb monitored and recorded. SA Gibb listened to the call via speakerphone, and
7 heard the CS talking in Spanish with GUTIERREZ-PONCE. During the call, the CS and
8 GUTIERREZ-PONCE agreed to meet in Federal Way. GUTIERREZ-PONCE said that
9 he would go to Federal Way, and that he would call his friend. The CS then asked
10 GUTIERREZ-PONCE about the price for methamphetamine. GUTIERREZ-PONCE
11 stated that he understood that the price had already been agreed upon. The CS told
12 GUTIERREZ-PONCE, "twenty-one," and GUTIERREZ-PONCE replied "yes."

13 31. At 2:34 p.m., GUTIERREZ-PONCE called the CS back from 424-370-
14 9214. SA Gibb monitored and recorded the call. During the call, GUTIERREZ-PONCE
15 asked the CS how many "hours" the CS wanted. Based upon my training and experience,
16 I know that, in this context, "hours" refers to pounds of methamphetamine. The CS
17 replied that s/he just wanted one. GUTIERREZ-PONCE told the CS that he would "let
18 the guy know," and that "they are leaving right now."

19 32. At 2:36 p.m., TFO Chohrach observed GUTIERREZ-PONCE drive out of
20 the alley. Surveillance was maintained on GUTIERREZ-PONCE as he traveled north on
21 Interstate 5 and exited at S. 320th Street, where he traveled west and entered the parking
22 lot of the Commons shopping mall, located at 1928 S. Commons, Federal Way,
23 Washington. Agents maintained intermittent surveillance of GUTIERREZ-PONCE as he
24 drove around the mall parking lot. During this surveillance, agents became concerned
25 that GUTIERREZ-PONCE had detected surveillance units.

26 33. At 2:50 p.m., SA Gibb and GS Lehnhoff met with the CS at a
27 predetermined location near the Commons shopping mall. SA Gibb and GS Lehnhoff
28 again searched the CS's person and vehicle for contraband, with none found. SA Gibb

1 outfitted the CS with an audio/video recording/transmitting device. SA Gibb provided
2 the CS with \$2,100 in pre-recorded Task Force buy funds.

3 34. At 2:55 p.m., SA Scott Modesitt observed GUTIERREZ-PONCE exit the
4 mall parking lot traveling east on S. 320th Street. After GUTIERREZ-PONCE entered
5 an adjacent parking lot and immediately looped around to exit, surveillance was
6 terminated due to concern that GUTIERREZ-PONCE had detected surveillance.

7 35. At 3:06 p.m., at the direction of SA Gibb and GS Lehnhoff, the CS drove to
8 and parked in the parking lot of the Commons shopping mall. Constant surveillance was
9 maintained on the CS during the operation. The CS parked in a parking spot on the north
10 end of the parking lot.

11 36. At 3:14 and 3:16 p.m., the CS called placed outgoing calls to 424-370-
12 9214. Both calls went unanswered. At 3:18 p.m., the CS sent GUTIERREZ-PONCE a
13 text message (to 424-370-9214). The message read, "What's up listen now I'm here
14 where we agreed." At 3:19 p.m., the CS received a text message from GUTIERREZ-
15 PONCE that read, "Ok give me a chance now almost." The CS replied at 3:19 p.m., "Ok
16 don't take too long please because I have other things to do and now you can see the
17 fucking traffic." At 3:21 p.m., GUTIERREZ-PONCE (424-370-9214) replied, "Yes I'll
18 see you right away buddy."

19 37. At 3:29 p.m., the CS received a call from GUTIERREZ-PONCE (424-370-
20 9214), which SA Gibb remotely monitored and recorded. During the call, GUTIERREZ-
21 PONCE made statements indicating that he was concerned that he was being followed
22 and therefore wanted to change the meeting location. GUTIERREZ-PONCE told the CS
23 to follow him when GUTIERREZ-PONCE arrived. GUTIERREZ-PONCE told the CS
24 that he had seen some trucks that he did not like, and he asked if the CS had seen
25 them. The CS told GUTIERREZ-PONCE where s/he was parked. After this call, SA
26 Gibb instructed the CS to move to a parking spot on the east end of the parking lot.

27 38. At 3:36 p.m., TFO William Earick observed GUTIERREZ-PONCE enter
28 the shopping mall parking lot on the motorcycle. Surveillance was maintained on

1 GUTIERREZ-PONCE, who drove around the parking lot for several minutes, then
2 parked in north end of the parking lot, and was observed talking on a cell phone by TFO
3 Earick.

4 39. At 3:37 p.m., the CS sent a text message to GUTIERREZ-PONCE (424-
5 370-9214) which read, "Send me the location where you want me to see you I left to take
6 a turn to see what I can see." At 3:40 p.m., the CS received a call from GUTIERREZ-
7 PONCE (424-370-9214), which SA Gibb remotely monitored and recorded. During the
8 call, the CS told GUTIERREZ-PONCE where s/he had moved to in the parking lot.

9 40. At 3:41 p.m., TFO Earick observed GUTIERREZ-PONCE drive east
10 through the parking lot and park near the CS. GS Lehnhoff observed the CS talking to
11 GUTIERREZ-PONCE, who remained seated on his motorcycle. At 3:44 p.m., GS
12 Lehnhoff observed GUTIERREZ-PONCE put on his helmet and drive out of the parking
13 lot. The CS then entered his/her vehicle. The CS then informed SA Gibb that
14 GUTIERREZ-PONCE had told him/her to meet across the street at the Harbor Freight
15 Tools store at 31858 Pacific Highway S., Federal Way, Washington. Surveillance was
16 subsequently established at that location.

17 41. At the direction of agents, the CS drove directly to the Harbor Freight
18 location and parked in the parking lot. At 3:57 p.m., SA Gibb observed GUTIERREZ-
19 PONCE on the motorcycle, which was parked in the southwest corner of the parking lot.
20 SA Gibb observed that GUTIERREZ-PONCE was overlooking the parking lot.

21 42. At 3:59 p.m., the CS called GUTIERREZ-PONCE (424-370-9214). SA
22 Gibb remotely monitored and recorded the call. During the call, GUTIERREZ-PONCE
23 said he was in the corner of the parking lot. The CS responded that s/he was down
24 below. GUTIERREZ-PONCE told the CS that he would tell the guy where the CS was
25 located.

26 43. At 4:01 p.m., SA Gibb (via the recording/monitoring equipment) heard the
27 CS enter a vehicle and speak in Spanish with a male. At that time, GS Lehnhoff, who
28 had primary visual surveillance on the CS's vehicle, had his view blocked by traffic and

1 did not see the CS exit his/her vehicle, and could not tell what vehicle the CS had
2 entered.

3 44. SA Gibb heard (via the recording/monitoring equipment) that the CS and
4 the male were conducting a drug transaction. Specifically, SA Gibb heard the male ask
5 the CS, "How much is it?" The CS answered "21." The CS then asked, "Is it weighed
6 right?" and the male answered, "Yes." At that time, GS Lehnhoff observed a small white
7 hatchback parked near the CS's vehicle. About one minute later, SA Gibb observed
8 GUTIERREZ-PONCE drive the motorcycle towards where the CS was parked. SA
9 Modesitt observed GUTIERREZ-PONCE continue through the parking lot and exit
10 westbound on S. 320th Street.

11 45. At 4:03 p.m., SA Gibb heard the CS exiting the vehicle. At 4:03 p.m., GS
12 Lehnhoff observed the white hatchback backing up and departing the area. Agents
13 attempted to follow the hatchback but were unable to locate it due to heavy traffic on
14 Pacific Highway S.

15 46. Following the meeting between the CS and the male in the white
16 hatchback, SA Gibb, TFO Shaw, and TFO Sean Scott maintained surveillance on the CS
17 and met the CS at a predetermined location. SA Gibb recovered the recording device
18 from the CS, and the CS handed SA Gibb a white plastic bag that contained a clear
19 plastic heat-seal bag, which contained suspected methamphetamine. SA Gibb and TFO
20 Shaw searched the CS's person and vehicle for contraband, with none found. A field test
21 of the suspected methamphetamine resulted presumptive positive for methamphetamine.
22 The gross weight of the suspected methamphetamine (including the bag it was in) was
23 approximately one pound (or 453 grams).

24 47. SA Gibb and TFO Shaw then interviewed the CS briefly. The CS stated
25 that when s/he parked in the Harbor Freight parking lot, s/he called GUTIERREZ-
26 PONCE and told him where s/he had parked. GUTIERREZ-PONCE stated words to the
27 effect that his associate would come over to the CS. The CS then saw the white
28 hatchback park near the CS. The male driver of the hatchback motioned to the CS to

1 enter the hatchback, at which time the CS exited his/her vehicle and entered the
2 hatchback. The CS observed that the driver was a heavyset Hispanic male. The
3 CS noticed that there were a lot of personal items on the floorboard of the hatchback as
4 s/he entered. The male mentioned that it was his “girl’s” car. As the CS entered, the
5 male had the white bag containing methamphetamine in his lap, which he handed to the
6 CS. The CS opened the bag and looked at the methamphetamine, then handed the male
7 \$2,100 of Task Force official funds. The male counted the money, then told the CS that
8 everything was good. The CS then exited the hatchback, which drove away.

9 48. On November 5, 2019, SA Gibb reviewed the audio/video recordings and
10 surveillance photographs from the sample meeting and the controlled purchase the
11 previous day. SA Gibb also obtained a Washington Department of Licensing
12 (“DOL”) photograph of GUTIERREZ-PONCE, based on the registered owner
13 information associated with the license plate of the motorcycle. SA Gibb observed that
14 the person in the DOL photograph was the same person (GUTIERREZ-PONCE) as the
15 person in the surveillance photographs and video recording that the CS met at the
16 Tacoma mall. On the same date, SA Gibb showed the DOL photograph to the CS, who
17 positively identified GUTIERREZ-PONCE as the person who provided the
18 methamphetamine sample and arranged for the delivery of the one pound of
19 methamphetamine.

20 49. Additionally, on November 5, 2019, SA Gibb reviewed the audio/video
21 recording of the controlled purchase of one pound of methamphetamine that the CS
22 conducted with the heavy-set Hispanic male at the Harbor Freight parking lot. SA Gibb
23 observed that the video recording did not capture a full view of the male’s face. SA Gibb
24 observed that the video briefly captured part of the male’s face, including his hairline and
25 right eye. SA Gibb recognized this image as similar to that of a suspect in another drug
26 trafficking investigation, Juan Jose VEGA-FLORES. On the same date, SA Gibb
27 obtained a Washington DOL photograph of VEGA-FLORES and showed it to the CS,
28

1 who positively identified VEGA-FLORES as the male who sold him/her one pound of
2 methamphetamine at the Harbor Freight parking lot the previous day.

3 50. Following this first controlled purchase, a DEA analyst performed a
4 telephone toll analysis for 424-370-9214, the phone used by GUTIERREZ-PONCE to
5 arrange the transaction with the CS. Telephone toll analysis was completed in order to
6 identify a phone that VEGA-FLORES used to communicate with GUTIERREZ-PONCE.
7 Agents believe that GUTIERREZ-PONCE contacted VEGA-FLORES by phone to
8 arrange for him to deliver the methamphetamine to the CS, because: (1) GUTIERREZ-
9 PONCE told the CS that he would call his friend to deliver the methamphetamine to
10 Federal Way, and (2) agents did not observe GUTIERREZ-PONCE meet with VEGA-
11 FLORES in person before the transaction. Knowing the time frame of the controlled
12 purchase, the analyst was able to determine that 206-227-2871 is the phone most likely
13 used by VEGA-FLORES to communicate with GUTIERREZ-PONCE to coordinate the
14 delivery of methamphetamine. A search of law enforcement databases also revealed that
15 206-227-2871 was identified in another DEA investigation as being a phone that is
16 utilized by VEGA-FLORES.

17 **C. Identification of the Residences of GUTIERREZ-PONCE and VEGA-**
18 **FLORES**

19 51. On November 8, 2019, Pierce County Superior Court Judge Grant Blinn
20 signed an order authorizing real-time GPS location information for the telephone used by
21 GUTIERREZ-PONCE during the controlled purchase on November 4, 2019: 424-370-
22 9214. Agents served the order on the telephone provider on the same date and began to
23 receive location data for the telephone. Location data for the device showed that it was
24 located overnight throughout the month of November 2019 at an address (Target
25 Residence 1), which coincides with a motorcycle registered to GUTIERREZ-PONCE at
26 that address.

27 52. On November 18, 2019, agents received information from the Port of
28 Seattle Police Department (“PSPD”) regarding VEGA-FLORES. According to the

1 PSPD's investigation, on October 4, 2019, VEGA-FLORES was involved in a car
2 accident in the 16000 block of Air Cargo Road, in SeaTac, Washington. VEGA-
3 FLORES had apparently rear-ended another vehicle. Further investigation revealed that
4 VEGA-FLORES was driving a vehicle that was displaying a stolen license plate. During
5 a search of VEGA-FLORES's vehicle, PSPD officers recovered a stolen Smith and
6 Wesson M&P 380 pistol. Following the accident, VEGA-FLORES provided his
7 residence address, located in Burien, Washington (hereafter, "Target Residence 2"), to
8 PSPD officers, which matches the address associated with VEGA-FLORES according to
9 DOL records.

10 **D. Controlled Purchase of Methamphetamine in December 2019**

11 53. Following the above-described controlled purchase on November 4, 2019,
12 the CS had several telephone calls with GUTIERREZ-PONCE regarding future drug
13 transactions, which occurred over the span of several weeks. SA Gibb remotely
14 monitored and recorded the calls. During one of the calls, GUTIERREZ-PONCE told the
15 CS that GUTIERREZ-PONCE was lowering the price per pound of methamphetamine,
16 from \$2,100 to \$1,900.

17 54. Additionally, on November 20, 2019, the CS received a call from
18 GUTIERREZ-PONCE, who was calling from 562-884-5338. During the call,
19 GUTIERREZ-PONCE told the CS that 562-884-5338 was his new telephone number.
20 On December 2, 2019, Pierce County Superior Court Judge Orlando signed an order
21 authorizing real time GPS location information for 562-884-5338. Agents served the
22 order on the telephone provider on the same date and began to receive location data for
23 the telephone on December 3, 2019. Location data for the telephone showed that it was
24 located overnight at Target Residence 1, throughout the months of December 2019 and
25 January 2020.

26 55. On December 3, 2019, agents conducted another controlled purchase of
27 methamphetamine from GUTIERREZ-PONCE, utilizing the CS. At 1:54 p.m., agents
28 established surveillance at Target Residence 1. When surveillance was established, TFO

1 Earick observed a blue 1998 Mazda B4000 pickup, Washington license C80981M
2 (Target Vehicle 1) (registered to Vallarta's Landscaping, at Target Residence 1).

3 56. At 1:55 p.m., SA Gibb and TFO Scott met with the CS at a predetermined
4 location. SA Gibb and TFO Scott searched the CS's person and vehicle for contraband,
5 with none found. SA Gibb outfitted the CS with an audio/video recording/transmitting
6 device. SA Gibb provided the CS with \$1,900 of DEA Official Advanced Funds
7 ("OAF") for the controlled purchase.

8 57. At 2:03 p.m., the CS placed a monitored/recorded call to GUTIERREZ-
9 PONCE at 562-884-5338. During the call, the CS requested (in coded language) to
10 purchase methamphetamine from GUTIERREZ-PONCE and requested to meet him in
11 about 30 minutes. GUTIERREZ-PONCE agreed to the transaction but told the CS that
12 he could not meet that soon, because GUTIERREZ-PONCE was watching his child and
13 waiting for his wife to arrive. GUTIERREZ-PONCE mentioned that his wife had go to
14 "the security." GUTIERREZ-PONCE told the CS that he would advise the CS when he
15 would be available. The CS told GUTIERREZ-PONCE that he needed "the same as last
16 time," meaning one pound of methamphetamine. The CS told GUTIERREZ-PONCE
17 that he wanted large pieces or crystals of methamphetamine, as opposed to powdery,
18 smaller crystals. GUTIERREZ-PONCE agreed.

19 58. Meanwhile, at 1:58 p.m., TFO Chohrach established surveillance at Target
20 Residence 2, the residence of VEGA-FLORES. At that time, TFO Chohrach observed a
21 white Ford hatchback, Washington license BNX1305 (registered to Alma P Gil Gonzalez
22 at Target Residence 2) parked in the parking lot of the apartment building. This car is the
23 same make and appearance of a car driven by VEGA-FLORES on November 4, 2019
24 when he delivered the CS one pound of methamphetamine. TFO Chohrach observed two
25 Hispanic males near the Ford hatchback. The males were working on an SUV that was
26 also parked in the parking lot. TFO Chohrach could not determine from his surveillance
27 position whether or not either of the males was VEGA-FLORES.
28

1 59. At 2:15 p.m., the CS received an incoming call from GUTIERREZ-PONCE
2 (562-884-5338), which was monitored and recorded by agents. During the call,
3 GUTIERREZ-PONCE told the CS that he found someone that could take care of the
4 child, so he would be able to meet the CS soon at the Southcenter Mall.

5 60. At 2:21 p.m., TFO Earick observed a Hispanic male matching the
6 description of GUTIERREZ-PONCE walk from Target Residence 1, carrying a small
7 child, which he placed in the rear seat of an Acura sedan (Washington license BDV3248).
8 TFO Earick observed GUTIERREZ-PONCE enter the driver's seat of the Acura and
9 depart the area. Surveillance was maintained on the Acura as it traveled to a Shell gas
10 station located at 9525 14th Avenue S., Seattle, and parked near the gas pumps. GS
11 Lehnhoff observed GUTIERREZ-PONCE enter the gas station briefly then return to the
12 Acura and drive out of the area.

13 61. Surveillance was maintained on the Acura as it traveled to the Social
14 Security Office located at 151 SW 156th Street, Burien, Washington, where it stopped in
15 the parking lot for several minutes. TFO Ryan Hamilton observed that the Acura was
16 parked in the parking lot with the "hazard" flashers activated, but agents were not in a
17 position to see what GUTIERREZ-PONCE did while in the parking lot.

18 62. At 2:44 p.m., TFO Hamilton observed the Acura depart the parking lot of
19 the Social Security office, traveling eastbound. Surveillance was maintained on the
20 Acura for a short distance, at which time surveillance was lost. Agents then moved to
21 establish surveillance at the Southcenter Mall.

22 63. At 2:54 p.m., the CS placed a monitored/recorded call to GUTIERREZ-
23 PONCE (562-884-5338). During the call GUTIERREZ-PONCE told the CS that he
24 would arrive in 10-15 minutes, and that GUTIERREZ-PONCE needed to make sure the
25 product was good (i.e., larger crystals as the CS requested).

26 64. At 3:07 p.m., at the direction of SA Gibb and TFO Scott, the CS drove to
27 and parked in the parking lot of the Buffalo Wild Wings restaurant, located at the north
28

1 end of the Southcenter Mall, at 2800 Southcenter Mall, Seattle, Washington. Constant
2 surveillance was maintained on the CS during the operation.

3 65. At 3:12 p.m., the CS called with GUTIERREZ-PONCE (562-884-5338),
4 who stated that he was finishing up and would meet the CS at the Buffalo Wild Wings
5 restaurant in 10 minutes. At 3:27 p.m., SA Gibb heard, via the transmitting device, that
6 the CS was talking on the phone with GUTIERREZ-PONCE and directing him to where
7 the CS was parked. SA Gibb then observed Target Vehicle 1 arrive and park next to the
8 CS's vehicle. This is the same truck that was parked at the Target Residence 1
9 previously in the day, indicating that GUTIERREZ-PONCE had returned to Target
10 Residence 1 after he went to the Social Security office in Burien and before meeting with
11 the CS.

12 66. SA Gibb observed GUTIERREZ-PONCE exit Target Vehicle 1 and enter
13 the front passenger seat of the CS's vehicle, at which time SA Gibb heard (via the
14 transmitting device) GUTIERREZ-PONCE conduct a drug transaction with the CS.
15 Moreover, SA Gibb observed GUTIERREZ-PONCE hand the CS a package containing a
16 crystal substance that SA Gibb recognized, based on his training and experience, to be
17 methamphetamine. While looking at the package, the CS commented to GUTIERREZ-
18 PONCE, "This looks better." At 3:30 p.m., SA Gibb observed GUTIERREZ-PONCE
19 exit the CS's vehicle, enter the driver's seat of Target Vehicle 1, and drive out of the area.
20 Surveillance was maintained on Target Vehicle 1 as it traveled south on Southcenter
21 Parkway, west on S. 200th Street, and north on Military Road, at which point surveillance
22 was lost.

23 67. TFO Earick subsequently established surveillance at Target Residence 1,
24 and observed that Target Vehicle 1 had not returned to the residence. Surveillance was
25 subsequently terminated.

26 68. Meanwhile, SA Gibb and TFO Scott maintained constant surveillance on
27 the CS and met the CS at a predetermined location. The CS provided agents a red gift
28 bag, which contained a clear zip lock bag that contained suspected methamphetamine.

1 Agents searched the CS's person and vehicle for contraband, with none found. SA Gibb
2 recovered the recording device from the CS. Agents conducted a field test of the
3 suspected methamphetamine, which returned presumptive positive for methamphetamine.
4 The gross weight of the suspected methamphetamine (including the bag it was in) was
5 approximately one pound (or approximately 453 grams).

6 **E. Controlled Purchase of "M-30" Pills on January 30, 2020**

7 69. Following the controlled purchase on December 3, 2019, the CS had
8 several telephone calls with GUTIERREZ-PONCE, which occurred over the span of
9 several weeks, regarding future drug transactions. SA Gibb monitored and recorded the
10 calls remotely. During these communications, GUTIERREZ-PONCE told the CS, in
11 coded language, that he had "pills" available. The CS believed that GUTIERREZ-
12 PONCE was referring to counterfeit "M-30" pills containing fentanyl.

13 70. On January 20, 2020, GUTIERREZ-PONCE called the CS from a new
14 telephone number: 562-618-3863. During the call, GUTIERREZ-PONCE identified
15 562-618-3863 as his new telephone number and told the CS to call GUTIERREZ-
16 PONCE for whatever s/he needed (referring to drugs). On January 28, 2020, Pierce
17 County Superior Court Judge Orlando signed an order authorizing real time GPS location
18 information for 562-618-3863. Agents served the order on the telephone provider and
19 began to receive location data for the telephone on the same date.

20 71. On January 30, 2020 at 1:20 p.m., agents began to attempt to locate
21 GUTIERREZ-PONCE, based on GPS location data for his telephone (562-618-3863), in
22 anticipation of a controlled purchase of fentanyl pills. At 1:45 p.m., GPS location data
23 showed that GUTIERREZ-PONCE's telephone was located in the vicinity of Kent,
24 Washington.

25 72. At 2:00 p.m., agents also established surveillance at Target Residence 1. At
26 2:04 p.m., TFO Chohrach arrived at a 7-Eleven store located at the intersection of Willis
27 Street and Central Ave in Kent, Washington, which coincided with GPS location data for
28 GUTIERREZ-PONCE's telephone at the time. At that location, TFO Chohrach observed

1 a silver Mazda sedan that was parked in the parking lot. TFO Jonathan Pearson observed
2 that a male matching the description of GUTIERREZ-PONCE was sitting in the front
3 passenger seat of the Mazda, while an unidentified male was in the driver's seat.

4 73. One minute later, TFO Chohrach observed the Mazda drive out of the
5 parking lot. Agents were unable to maintain surveillance of the Mazda when it left.
6 Agents continued to monitor GPS location data for GUTIERREZ-PONCE's telephone,
7 which showed that the device was moving from the Kent area toward GUTIERREZ-
8 PONCE's residence (Target Residence 1).

9 74. At 2:07 p.m., SA Gibb and your Affiant met with the CS at a predetermined
10 location. Agents searched the CS and the CS's vehicle for contraband, with none found.
11 SA Gibb outfitted both the CS and your Affiant (who was acting in an undercover
12 capacity and will be hereafter referred to as "UC") with audio/video
13 recording/transmitting devices.

14 75. At 2:22 p.m., at the direction of agents, the CS placed a monitored/recorded
15 call to GUTIERREZ-PONCE (562-618-3863). The call went to voicemail. At 2:28 p.m.,
16 the CS received an incoming call from GUTIERREZ-PONCE (562-618-3863). The call
17 occurred in Spanish, and was monitored and recorded by SA Gibb. During the call, in
18 coded language, the CS asked GUTIERREZ-PONCE if he could bring the CS a sample
19 of pills. GUTIERREZ-PONCE replied, "right now where they [the pills] are, they don't
20 arrive until like four I believe... let me see if the guy has left yet." GUTIERREZ-PONCE
21 then confirmed that the CS wanted only "the little round ones," which the CS confirmed.
22 GUTIERREZ-PONCE then stated, "Let me see... I give some to the guys so that they are
23 in the street... let me see if they still have a few so they can give me some to bring to
24 you." The CS and agents understood this to mean that GUTIERREZ-PONCE's fentanyl
25 pill supplier was not available until 4:00 p.m., but that he would see if he could get a
26 sample from one of his redistributors or "runners" that he had given pills to previously.

27 76. At 2:34 p.m., the CS received an incoming call from GUTIERREZ-PONCE
28 (562-618-3863). During the call, which was monitored and recorded, GUTIERREZ-

1 PONCE told the CS that, “it looks like the guy is there.” GUTIERREZ-PONCE then
2 stated that he was changing a headlight and after that he would “go pick them up and
3 head over there.” The CS confirmed that s/he would meet GUTIERREZ-PONCE at the
4 same place that they met last time, (i.e. the Buffalo Wild Wings restaurant at the
5 Southcenter Mall). GUTIERREZ-PONCE stated that he would arrive in approximately
6 45 minutes.

7 77. At 2:40 p.m., TFO Earick observed Target Vehicle 1 driving on Des
8 Moines Memorial Drive toward Target Residence 1. At 2:45 p.m., SA Gibb, who was
9 monitoring a stationary surveillance camera at GUTIERREZ-PONCE’s residence,
10 observed Target Vehicle 1 arrive and park in front of Target Residence 1. SA Gibb also
11 observed a maroon GMC Canyon pickup arrive simultaneously with Target Vehicle 1.
12 The GMC Canyon parked directly behind Target Vehicle 1. SA Gibb then observed
13 GUTIERREZ-PONCE exit Target Vehicle 1 and enter the front passenger seat of the
14 GMC Canyon. The GMC Canyon then departed, traveling north from the residence.

15 78. Agents were unable to maintain surveillance on the GMC Canyon, due to
16 counter-surveillance driving techniques that it performed as it left the residence. At 2:49
17 p.m., TFO Earick observed the GMC Canyon in the vicinity of the intersection of Eighth
18 Ave. S. and S. Trenton Street. Agents were again unable to maintain surveillance of the
19 GMC Canyon.

20 79. At 3:03 p.m., GPS location data for GUTIERREZ-PONCE’s telephone
21 showed that the device was located in the vicinity of VEGA-FLORES’s residence (Target
22 Residence 2). The “certainty” of the GPS location was indicated at 24 meters. After
23 receiving the GPS location data, surveillance team members departed the vicinity of
24 GUTIERREZ-PONCE’s residence in an attempt to locate him at VEGA-FLORES’s
25 residence.

26 80. At 3:07 p.m., the CS received an incoming call from GUTIERREZ-PONCE
27 (562-618-3863), which SA Gibb monitored and recorded. During the call, GUTIERREZ-
28 PONCE told the CS that he would arrive in 10-15 minutes. At 3:16 p.m., TFO Justin

1 Chohrach arrived and established surveillance at Target Residence 2. TFO Chohrach did
2 not observe the GMC Canyon in the vicinity of the apartment building, indicating that
3 GUTIERREZ-PONCE had already departed to go meet the CS.

4 81. At 3:17 p.m., at the direction of agents, the CS and UC entered the CS's
5 vehicle and drove (while under constant surveillance) to the Buffalo Wild Wings
6 restaurant located at 2800 Southcenter Mall, Seattle, Washington. At 3:20 p.m., TFO
7 Antony Nisco observed the GMC Canyon arrive at the restaurant and park directly next
8 to the CS's vehicle on the passenger side. SA Gibb observed GUTIERREZ-PONCE exit
9 the driver's side of the GMC Canyon and enter the back seat of the CS's vehicle.

10 82. After entering the vehicle, the UC observed GUTIERREZ-PONCE hand
11 the CS a small latex bag, with a small number of pill shaped items inside. When
12 GUTIERREZ-PONCE entered the vehicle, the UC could smell a strong vinegar-like odor
13 coming from the area GUTIERREZ-PONCE was sitting, particularly when he reached
14 forward into the front seat area to hand the CS the pills. Based on the UC's training and
15 experience, this is a known smell associated with heroin.

16 83. At 3:21 p.m., TFO Nisco observed GUTIERREZ-PONCE exit the CS's
17 vehicle and walk back to the GMC Canyon, where he entered the driver's seat and drove
18 out of the parking lot. Agents maintained surveillance of the CS and UC as they drove to
19 a predetermined location, where the UC showed SA Gibb the pills, which were stamped
20 "M-30." SA Gibb and the UC searched the CS and the CS's vehicle for contraband, with
21 none found. For safety reasons, agents did not conduct a field test of the pills. Based on
22 my training and experience, and knowledge of the investigation to date, I believe that the
23 pills contained fentanyl, because, for example, their appearance is highly similar to that
24 of pills containing fentanyl that investigators have collected and tested in other
25 investigations.

26 84. Agents transferred the pills to the DEA Western Regional Laboratory for
27 analysis and safekeeping.
28

1 85. Agents then interviewed the CS briefly regarding the meeting. The CS
2 stated that a short time after s/he and the UC arrived at the parking lot, s/he observed
3 GUTIERREZ-PONCE arrive in a maroon pickup truck. GUTIERREZ-PONCE entered
4 the back of the CS's vehicle, handed the CS a clear plastic bag containing six small blue
5 pills. The CS told GUTIERREZ-PONCE that the UC had a friend who was interested in
6 buying pills, and that s/he and the UC would go meet the friend to show the sample, and
7 would let GUTIERREZ-PONCE know if they wanted to buy more. The CS stated that
8 GUTIERREZ-PONCE indicated that he was not comfortable with the UC being present
9 and it would be better if the CS came alone in the future.

10 86. At 3:32 p.m., SA Gibb observed (via the stationary surveillance camera) the
11 GMC Canyon arrive at Target Residence 1 and park inside the gate in the driveway at the
12 south side of the residence. At 3:38 p.m., GPS location data for GUTIERREZ-PONCE's
13 telephone (562-618-3863) showed that the device was located in the vicinity of the
14 Target Residence 1.

15 87. At 3:58 p.m., at the direction of agents, the CS placed a monitored/recorded
16 call to GUTIERREZ-PONCE (562-618-3863). During the call, the CS asked
17 GUTIERREZ-PONCE for "270," referring to 270 pills. GUTIERREZ-PONCE replied
18 the he would leave in ten minutes to "pick up" and he would meet the CS in
19 approximately 40 minutes. Following the call, agents provided the CS with \$2,500 of
20 OAF to purchase pills from GUTIERREZ-PONCE.

21 88. At 4:01 p.m., SA Gibb observed (via the stationary surveillance camera)
22 GUTIERREZ-PONCE and an unidentified male (hereafter "UM3") walk from Target
23 Residence 1 toward Target Vehicle 1. SA Gibb observed GUTIERREZ-PONCE enter
24 the driver's seat of Target Vehicle 1, while UM3 entered the front passenger seat. Target
25 Vehicle 1 then departed the residence. At 4:14 p.m., TFO Chohrach observed Target
26 Vehicle 1 arrive at VEGA-FLORES's apartment building (Target Residence 2) and park
27 on the north side of the building. When Target Vehicle 1 passed TFO Chohrach, he
28 observed that there were two occupants in the vehicle. Target Vehicle 1 then parked out

1 of TFO Chohrach's view. A minute later, TFO Chohrach drove through the rear parking
2 lot of apartment building and observed Target Vehicle 1 parked up against a fence, not in
3 a parking stall. TFO Chohrach observed there was only a front-seat passenger in the
4 vehicle and no one in the driver's seat.

5 89. At 4:16 p.m., at the direction of agents, the CS entered his/her vehicle and
6 drove, while under constant surveillance, back to the Buffalo Wild Wings restaurant
7 parking lot.

8 90. At 4:22 p.m., TFO Chohrach walked through the parking lot of Target
9 Residence 2. As he walked by the Target Vehicle 1, TFO Chohrach noted that the front-
10 seat passenger was still the only person in the vehicle. TFO Chohrach maintained
11 surveillance on Target Vehicle 1.

12 91. At 4:23 p.m., TFO Chohrach observed a white Ford Focus, bearing
13 Washington license plate BNX1305, arrive at the apartment building and park in a
14 parking stall in the parking lot for Target Residence 2. This is the same Ford Focus that
15 is associated with VEGA-FLORES (as described above). TFO Chohrach observed three
16 children exit the passenger side of the Ford Focus, while another male remained seated in
17 the driver's seat. TFO Chohrach observed that the three subjects that exited the Ford
18 Focus all walked up the stairs on the south side of the apartment building and entered
19 Target Residence 2.

20 92. At 4:26 p.m., TFO Chohrach observed GUTIERREZ-PONCE exit Target
21 Residence 2 and walk down the stairs. TFO Chohrach observed that GUTIERREZ-
22 PONCE was talking on a cell phone, and entered the driver's seat of Target Vehicle 1.
23 While GUTIERREZ-PONCE was still sitting in Target Vehicle 1, the CS received a text
24 message from GUTIERREZ-PONCE (562-618-3863) which read, "I'm headed over there
25 dude, it's just that I didn't have them counted out." Approximately 30 seconds later,
26 TFO Chohrach observed Target Vehicle 1 depart the parking lot of Target Residence 2.

27 93. At 4:39 p.m., TFO Earick observed Target Vehicle 1 enter the parking lot
28 of the Southcenter Mall, driving toward the Buffalo Wild Wings. TFO Nisco observed

1 Target Vehicle 1 park next to the CS's vehicle on the passenger side. SA Gibb observed
2 GUTIERREZ-PONCE exit the driver's seat of Target Vehicle 1 and enter the front
3 passenger seat of the CS's vehicle. SA Gibb then heard (via the recording/transmitting
4 device) the CS conduct a drug transaction with the CS.

5 94. At 4:42 p.m., SA Gibb observed GUTIERREZ-PONCE exit the CS's
6 vehicle, enter the driver's seat of Target Vehicle 1, and drive out of the parking lot.
7 Surveillance was maintained on Target Vehicle 1, as it traveled north on I-5 and then
8 north SR-599. Shortly thereafter, agents observed Target Vehicle 1 accelerating rapidly
9 and making several abrupt lane changes, at which point surveillance was terminated.
10 TFO Chohrach maintained surveillance at Target Residence 2 but did not observe
11 GUTIERREZ-PONCE return to that location.

12 95. Meanwhile, SA Gibb and your Affiant maintained constant surveillance on
13 the CS and met him/her at a predetermined location. The CS provided agents a clear
14 plastic bag containing blue pills marked "M-30." Agents searched the CS and the CS's
15 vehicle for contraband, with none found.

16 96. Agents then interviewed the CS regarding the controlled purchase. The CS
17 stated that shortly after s/he arrived at the Buffalo Wild Wings, s/he observed
18 GUTIERREZ-PONCE arrive driving a blue pickup truck. GUTIERREZ-PONCE then
19 entered the CS's vehicle and handed the CS the plastic bag containing the blue pills. The
20 CS handed GUTIERREZ-PONCE the \$2,500 of OAF and watched as he counted it.
21 GUTIERREZ-PONCE stated that he has brought 290 pills. The CS stated that he had
22 asked for 270, but GUTIERREZ-PONCE was not concerned. For safety reasons, agents
23 did not conduct a field test of the pills. Based on my training and experience, and
24 knowledge of the investigation to date, I believe that the pills contained fentanyl,
25 because, for example, their appearance is highly similar to that of pills containing
26 fentanyl that investigators have collected and tested in other investigations.

27 ///

28 ///

F. Attempted Controlled Purchase on February 19, 2020

97. On February 13, 2020, the CS met with GUTIERREZ-PONCE to discuss a future purchase of 10 pounds of methamphetamine. The meeting was recorded and monitored by SA Gibb, utilizing an audio/video recording device. During the meeting, GUTIERREZ-PONCE agreed to supply 10 pounds of methamphetamine to the CS on February 19, 2020. On February 18, 2020, the CS called GUTIERREZ-PONCE to confirm the transaction for the following day. During the call, GUTIERREZ-PONCE told the CS that he would only have five pounds of methamphetamine available. The CS agreed to purchase the five pounds.

98. On the morning of February 19, 2020, agents established surveillance at Target Residence 1. At approximately 8:36 a.m., agents observed GUTIERREZ-PONCE leave Target Residence 1, driving a silver Mercedes sedan. Agents maintained surveillance of GUTIERREZ-PONCE.

99. Beginning at approximately 9:00 a.m., the CS had a series of calls with GUTIERREZ-PONCE, and ultimately arranged to meet him at the L.A. Fitness parking lot, located at 350 Baker Blvd, Tukwila, Washington. The calls were monitored and recorded by SA Gibb. Agents observed GUTIERREZ-PONCE arrive at the L.A. Fitness a short time later. However, GUTIERREZ-PONCE did not stop and continued driving out of the parking lot. GUTIERREZ-PONCE and the CS then spoke by telephone, and GUTIERREZ-PONCE indicated that he had seen vehicles that he did not like (i.e. that he had spotted surveillance personnel). GUTIERREZ-PONCE then requested that the meeting be moved to a different location.

100. At the direction of investigators, the CS arranged to meet GUTIERREZ-PONCE at the Holiday Inn Express, located at 90 Andover Park E., Tukwila, Washington. Agents maintained surveillance of GUTIERREZ-PONCE, and observed him meet with an unidentified male, who was driving a gray Dodge Magnum (i.e., **Target Vehicle 2**). Both the Mercedes and the Magnum then began to drive toward the Holiday Inn Express.

101. As the two vehicles approached the Holiday Inn Express, agents observed GUTIERREZ-PONCE enter the parking lot and park near the CS. The Magnum did not enter the hotel parking lot, but instead entered the parking lot of an adjacent business. GUTIERREZ-PONCE was observed by TFO Earick exiting the Mercedes he was driving and entering the front passenger seat of the CS's vehicle. After entering the vehicle, investigators approached the CS's vehicle, identified themselves, and placed GUTIERREZ-PONCE under arrest. Agents simultaneously attempted to stop the Magnum, but were unable to do so. The Magnum (**Target Vehicle 2**) fled the area at a high rate of speed.

G. Search of GUTIERREZ-PONCE's Residence and Vehicle

102. After taking GUTIERREZ-PONCE into custody, agents executed a federal search warrant at Target Residence 1. A female and a young child were found inside while serving the warrant. During the search of the residence, agents located a safe in master bedroom the closet. Inside the safe, agents located a large amount of U.S. currency and a loaded 9mm semi-automatic handgun. Inside a second bedroom, agents located a large amount of U.S. currency in the night stand next to the bed.

103. Investigators also executed a federal warrant to search GUTIERREZ-PONCE's blue Mazda B4000 pickup truck (Target Vehicle 1). The truck was parked in the backyard of the residence. Investigators searched the vehicle and found several zip lock bags as well as saran wrap in the pickup truck. These items were found in multiple trash bags in the Mazda pickup and are commonly used to package drugs.

H. Search of VEGA-FLORES's Residence

104. At the same time that the search warrant was executed at Target Residence 1, agents also executed a federal search warrant at Target Residence 2. A female and three small children were found inside the apartment while serving the warrant, however, VEGA-FLORES was not inside at the time of service.

105. During the search, agents found various suspected controlled substances, including approximately 992.5 grams of cocaine and 2,858.2 grams of heroin, both of

1 which field-tested positive. Agents further found approximately 276.9 grams of
2 suspected fentanyl pills. Agents did not conduct a field test of the pills, due to the
3 possibility that they contain fentanyl. Based on my training and experience, and
4 knowledge of the investigation to date, I believe that the pills contained fentanyl,
5 because, for example, their appearance is highly similar to that of pills containing
6 fentanyl that investigators have collected and tested in other investigations. Investigators
7 also found within Target Residence 2 a loaded 9mm semi-automatic handgun and a large
8 amount of U.S. currency.

9 **I. Complaint Filed**

10 106. On February 20, 2020, GUTIERREZ-PONCE and VEGA-FLORES were
11 charged by Complaint with one count of Conspiracy to Distribute Controlled Substances,
12 in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A), and 846. (W.D. Wash. 2:20mj074).
13 The same day, the Honorable Mary Alice Theiler issued a warrant for VEGA-FLORES's
14 arrest.

15 **J. Arrest of VEGA-FLORES on February 27, 2020**

16 107. On February 26, 2020, at approximately 11:52 AM, GPS location data from
17 VEGA FLORES's phone indicated that his phone was in the vicinity of 3702 Auburn
18 Way S., Auburn, WA (i.e., the apartment complex where **Target Residence 3** is located).
19 This was from phone number 206-468-9840 which (according to data obtained from T-
20 Mobile), is registered to VEGA FLORES.

21 108. On February 27, 2020, at approximately 8:00 AM, law enforcement
22 established surveillance at this location. GPS location data from VEGA FLORES's
23 indicated that the phone was still located near this apartment complex.

24 109. While observing the complex, TFO Pearson observed a dark blue Chevrolet
25 pickup truck in the parking lot of the complex. Agents had previously identified this
26 truck on February 19, 2020, while executing the above-described federal search warrant
27 at VEGA-FLORES's residence (at the time, the individual who was driving the truck was
28 observed circling VEGA-FLORES's apartment, walking in the vicinity of the apartment,

1 and taking photographs of the agents' vehicles). TFO Pearson (on February 27, 2020),
2 observed an individual drive the truck in front of the "G" building of the complex.

3 110. At approximately 12:30 PM, while maintaining surveillance of the
4 apartment complex and the truck, SA Gibb located the green Dodge Magnum (i.e.,
5 **Target Vehicle 2**) that had fled from law enforcement on February 19, 2020 (as
6 described above). **Target Vehicle 2** has white racing stripes on it's rear, making it a
7 distinct vehicle.

8 111. At approximately 2:18 PM, SA Gibb observed two individuals exit
9 apartment 101 of the G building (i.e, **Target Residence 3**) and enter the dark blue
10 Chevrolet pickup truck. Agents observed the vehicle as it slowly drove through the
11 parking lot and exited. The truck drove down west of Auburn Way S. and at
12 approximately 2:23 PM, entered the Arco parking lot, located at 2790 Auburn Way S,
13 Auburn, WA 98002.

14 112. TFO Pearson, who was sitting at the Shell station next to the Arco,
15 positively identified the truck's passenger as VEGA FLORES. Agents drove to the Arco
16 gas station and located the truck, which was on the west side of the Arco parking lot, near
17 the tire filling station. Agents entered the parking lot, identified themselves with visible
18 police patches and emergency lights on vehicles, and placed VEGA FLORES under
19 arrest.

20 113. At approximately 2:25 PM, your Affiant read VEGA-FLORES his Miranda
21 warnings from a DEA 13 Miranda card. VEGA FLORES stated that he understood his
22 rights and agreed to answer questions. VEGA-FLORES then admitted to staying at
23 **Target Residence 3** since he returned to Washington on February 19, 2020. VEGA-
24 FLORES also explained that the second individual whom agents had observed leaving
25 **Target Residence 3** minutes prior, C.S.*, had previously driven **Target Vehicle 2** from an
26 undisclosed location to the apartment complex where **Target Residence 3** is located.

27 114. Agents also read C.S. his Miranda warnings, and C.S. stated that he
28 understood his rights and agreed to answer questions. C.S. acknowledged that he had

*For clarity, this individuals initials are "C.S." but this is not the Confidential Source described elsewhere in this

Affidavit.

1 transported **Target Vehicle 2** in the manner that VEGA-FLORES had explained (as
2 noted above). C.S. further acknowledged that he lived in **Target Residence 3**, and that
3 VEGA-FLORES had been living in **Target Residence 3** for a couple of days.

4 **TACTICS USED BY DRUG TRAFFICKERS**

5 115. Based upon my training, experience, and participation in this and other
6 investigations involving drug trafficking, my conversations with other experienced
7 investigators and law enforcement investigators with whom I work, and interviews of
8 individuals who have been involved in the trafficking of methamphetamine, heroin,
9 cocaine and other drugs, I have learned and know the following:

10 116. Drug traffickers often use “stash houses” to conceal their illegal activities
11 and contraband. Such stash houses allow drug traffickers to keep their contraband at a
12 hidden location, where they may not live, thereby making it more difficult for law
13 enforcement and/or competitors to identify these locations where drugs and drug
14 proceeds may be hidden.

15 117. It is common for drug traffickers to hide proceeds of illegal drug sales and
16 records of illegal drug transactions in secure locations within their residences, stash
17 houses, storage units, garages, outbuildings and/or vehicles on the property for their
18 ready access and to conceal them from law enforcement authorities.

19 118. It is common to find papers, letters, billings, documents, and other writings,
20 which show ownership, dominion, and control of businesses, residences, and/or vehicles
21 in the residences, stash houses, storage units, garages, outbuildings and/or vehicles of
22 drug traffickers. Items of personal property that tend to identify the persons in residence,
23 occupancy, control, or ownership of the premises also include canceled mail, deeds,
24 leases, rental agreements, photographs, personal telephone books, diaries, utility and
25 telephone bills, statements, identification documents, keys, financial papers, rental
26 receipts and property ownership papers, personal and business telephone and address
27 books and telephone toll records, and other personal papers or identification cards in the
28 names of subjects involved in the criminal activity being investigated.

1 119. Drug traffickers frequently amass large amounts of proceeds, in the form of
2 cash, from the illegal sale of drugs that they attempt to legitimize or “launder.” To
3 accomplish this goal, drug traffickers use financial institutions and their attendant
4 services, securities, cashier’s checks, safe deposit boxes, money drafts, real estate, shell
5 operations, and business fronts. Persons involved in drug trafficking and/or money
6 laundering keep papers relating to these activities for future reference, including federal
7 and state tax records, loan records, mortgages, deeds, titles, certificates of ownership,
8 records regarding investments and securities, safe deposit box rental records and keys,
9 and photographs. I know from my training and experience that often items of value are
10 concealed by persons involved in large-scale drug trafficking inside of safes, lock boxes,
11 and other secure locations within their residences, outbuildings, and vehicles.

12 120. Drug traffickers often place assets in names other than their own to avoid
13 detection by investigative/police agencies, and even though these assets are in the names
14 of other individuals or businesses, the drug traffickers actually own and continue to use
15 these assets and exercise dominion and control over them.

16 121. Drug traffickers often document aspects of their criminal conduct through
17 photographs or videos of themselves, their associates, their property, and their products,
18 including drugs and drug proceeds. Drug traffickers usually maintain these photographs
19 or videos in their possession.

20 122. Drug traffickers often maintain large amounts of U.S. currency in order to
21 maintain and finance their ongoing illegal drug trafficking business. Often, drug
22 traffickers from other countries operating in the United States use wire remitters and bulk
23 cash transfers to transfer currency to co-conspirators living in other states or countries.

24 123. Drug traffickers commonly have in their possession, on their person, and at
25 their residences and/or in their storage units, firearms and other weapons, which are used
26 to protect and secure their property.

27 124. Drug traffickers use mobile electronic devices including cellular telephones
28 and other wireless communication devices to conduct their illegal activities. For

1 example, traffickers of controlled substances commonly maintain records of addresses,
2 vehicles, or telephone numbers that reflect names, addresses, vehicles, and/or telephone
3 numbers of their suppliers, customers and associates in the trafficking organization. It is
4 common to find drug traffickers keeping such records of said associates in cellular
5 telephones and other electronic devices. Drug traffickers frequently change their cellular
6 telephone numbers to avoid detection by law enforcement, and it is common for drug
7 traffickers to use more than one cellular telephone at any one time.

8 125. Drug traffickers use cellular telephones to maintain contact with their
9 suppliers, distributors, and customers. They prefer cellular telephones because, first, they
10 can be purchased without the location and personal information that landlines require.
11 Second, they can be easily carried to permit the user maximum flexibility in meeting
12 associates, avoiding police surveillance, and traveling to obtain or distribute drugs.
13 Third, they can be passed between members of a drug conspiracy to allow substitution
14 when one member leaves the area temporarily. Since the use of cellular telephones
15 became widespread, every drug trafficker with which I have interacted has used one or
16 more cellular telephones for his or her drug business. I also know that it is common for
17 drug traffickers to retain in their possession cellular phones that they previously used, but
18 have deactivated or discontinued using. Based on my training and experience, the data
19 maintained in a cellular telephone used by a drug trafficker is often evidence of a crime
20 or crimes. This includes the following:

21 a. The assigned number to the cellular telephone (known as the mobile
22 directory number or MDN), and the identifying telephone serial number (Electronic
23 Serial Number, or ESN), (Mobile Identification Number, or MIN), (International Mobile
24 Subscriber Identity, or IMSI), or (International Mobile Equipment Identity, or IMEI) are
25 important evidence because they reveal the service provider, allow us to obtain subscriber
26 information, and uniquely identify the telephone. This information can be used to obtain
27 toll records, to identify contacts by this telephone with other cellular telephones used by
28

1 co-conspirators, to identify other telephones used by the same subscriber or purchased as
2 part of a package, and to confirm if the telephone was contacted by a cooperating source.

3 b. The stored list of recent received calls and sent calls is important evidence.
4 It identifies telephones recently in contact with the telephone user. This is valuable
5 information in a drug investigation because it will identify telephones used by other
6 members of the organization, such as suppliers, distributors and customers, and it
7 confirms the date and time of contacts. If the user is under surveillance, it identifies what
8 number he called during or around the time of a drug transaction or surveilled meeting.
9 Even if a contact involves a telephone user not part of the conspiracy, the information is
10 helpful (and thus is evidence) because it leads to friends and associates of the user who
11 can identify the user, help locate the user, and provide information about the user.
12 Identifying a defendant's law-abiding friends is often just as useful as identifying his
13 drug-trafficking associates.

14 c. Stored text messages are important evidence, similar to stored numbers.
15 Agents can identify both drug associates, and friends of the user who likely have helpful
16 information about the user, his location, and his activities.

17 d. Photographs on a cellular telephone are evidence because they help identify
18 the user, either through his or her own picture, or through pictures of friends, family, and
19 associates that can identify the user. Pictures also identify associates likely to be
20 members of the drug trafficking organization. Some drug traffickers photograph groups
21 of associates, sometimes posing with weapons and showing identifiable gang signs.
22 Also, digital photos often have embedded "geocode" information within them. Geocode
23 information is typically the longitude and latitude where the photo was taken. Showing
24 where the photo was taken can have evidentiary value. This location information is
25 helpful because, for example, it can show where coconspirators meet, where they travel,
26 and where assets might be located
27
28

1 e. Stored address records are important evidence because they show the user's
2 close associates and family members, and they contain names and nicknames connected
3 to phone numbers that can be used to identify suspects.

4 126. It is common for drug traffickers to possess drugs, drug paraphernalia, and
5 other items which are associated with the sale and use of controlled substances such as
6 scales, containers, cutting agents, and packaging materials in their residences, stash
7 houses, storage units, garages, outbuildings and/or vehicles on their property.

8 127. Drug traffickers frequently try to conceal their identities by using
9 fraudulent names and identification cards. Once identities have been created or stolen
10 from other citizens, drug traffickers use those identifications to falsify records such as
11 Department of Licensing records and phone records for the purpose of theft of services
12 and to evade detection by law enforcement.

13 128. It is a common practice for drug traffickers to maintain records relating to
14 their drug trafficking activities in their residences, stash houses, storage units, garages,
15 outbuildings and/or vehicles. Because drug traffickers in many instances will "front"
16 (that is, sell on consignment) controlled substances to their associates, or alternatively,
17 will be "fronted" these items from their suppliers, such record keeping is necessary to
18 keep track of amounts paid and owed, and such records will also be maintained close at
19 hand so as to readily ascertain current balances. These records include "pay and owe"
20 records to show balances due for drugs sold in the past (pay) and for payments expected
21 (owe) as to the trafficker's suppliers and distributors, telephone and address listings of
22 clients and suppliers, and records of drug proceeds. These records are commonly kept for
23 an extended period.

24 129. Drug traffickers often maintain books, records, receipts, notes, ledgers,
25 airline tickets, money orders, and other papers relating to the transportation and
26 distribution of controlled substances. These documents whether in physical or electronic
27 form, are maintained where the traffickers have ready access to them. These documents
28 include travel records, receipts, airline tickets, auto rental agreements, invoices, and other

1 memorandum disclosing acquisition of assets and personal or business expenses. I also
2 know that such records are frequently maintained in drugs traffickers' residences, stash
3 houses, storage units, garages, outbuildings and/or vehicles.

4 **COMPUTERS, ELECTRONIC STORAGE, AND FORENSIC ANALYSIS**

5 130. As described in Attachment B, this application seeks permission to search
6 for and seize items listed in Attachment B that might be found in **Target Residence 3**
7 and **Target Vehicle 2**, in whatever form they are found. One form in which evidence,
8 fruits, or instrumentalities might be found is data stored on a computer's hard drive or
9 other digital device³ or electronic storage media.⁴ Thus, the warrant applied for would
10 authorize the seizure of electronic storage media—specifically, cellular phones—or,
11 potentially, the copying of electronically stored information, all under Rule 41(e)(2)(B).

12 131. Through my training and experience, and the information learned during
13 the course of this investigation, I know that individuals who engage in offenses like those
14 described above often keep physical evidence, fruits, and instrumentalities of their crimes
15 inside their residences, including but not limited to, digital devices for storing lists of
16 customers, ledgers of financial transactions, access devices relating to financial accounts
17 (including credit and debit cards), detailed financial records, and cash proceeds. This is
18 particularly true because, for example, VEGA-FLORES is believed to have been staying
19 at **Target Residence 3** for approximately one week following law enforcement's
20
21

22 ³ "Digital device" includes any device capable of processing and/or storing data in electronic
23 form, including, but not limited to: central processing units, laptop, desktop, notebook or tablet
24 computers, computer servers, peripheral input/output devices such as keyboards, printers,
25 scanners, plotters, monitors, and drives intended for removable media, related communications
26 devices such as modems, routers and switches, and electronic/digital security devices, wireless
27 communication devices such as mobile or cellular telephones and telephone paging devices,
28 personal data assistants ("PDAs"), iPods/iPads, Blackberries, digital cameras, digital gaming
devices, global positioning satellite devices (GPS), or portable media players.

⁴ Electronic Storage media is any physical object upon which electronically stored information
can be recorded. Examples include hard disks, RAM, floppy disks, flash memory, CD-ROMs,
and other magnetic or optical media.

1 execution of a search at a residence on February 19, 2020, during which agents recovered
2 suspected controlled substances, currency, and a firearm.

3 132. I have also learned through training, education, and experience that such
4 evidence, fruits, and instrumentalities are often stored in locked containers, safes, secret
5 compartments, closets, drawers, above or below ceiling and floor tiles, behind false walls,
6 and in other places intended to avoid detection by other people, including law
7 enforcement.

8 133. Finally, I know that the commission of the offenses detailed herein
9 necessarily requires the use of computers, smart phones, tablets, or other computer
10 devices and storage media for the perpetrator to connect with customers and co-
11 conspirators. I have learned through training and experience that individuals who engage
12 in the offenses described herein also commonly use such electronic devices to keep track
13 of customers, keep records of illegal transactions and criminal proceeds, and store copies
14 of online chats, emails, and other data. In such cases, I know that perpetrators often keep
15 such electronic devices inside their homes. In the case of smart phones, tablets, and
16 laptop computers, perpetrators may also keep such devices on their person, either in their
17 pockets or in containers such as carrying bags, cases, backpacks or protective sleeves.

18 134. *Probable cause.* Based upon my review of the evidence gathered in this
19 investigation, my review of data and records, information received from other agents and
20 computer forensic examiners, and my training and experience, I submit that if a digital
21 device or other electronic storage medium is found in **Target Residence 3** or **Target**
22 **Vehicle 2** there is probable cause to believe that evidence, fruits, and instrumentalities of
23 conspiracy to commit drug trafficking, in violation of 21 U.S.C. §§ 841 and 846, will be
24 stored on those digital devices or other electronic storage media, for at least the following
25 reasons:

26 a. I believe that digital devices or other electronic storage media—
27 specifically, cell phones—were being used to communicate with members of, and in
28 furtherance of, the drug trafficking activities described herein. For example, as described

1 above, evidence gathered during the course of the investigation indicates that
2 GUTIERREZ-PONCE and VEGA-FLORES have used cell phones to send and receive
3 communications reflecting, or otherwise related to, the possession and/or distribution of
4 controlled substances.

5 135. There is, therefore, probable cause to believe that evidence, fruits, and
6 instrumentalities, of the crimes under investigation exist and will be found on digital
7 devices or other electronic storage media at **Target Residence 3** or **Target Vehicle 2**, for
8 at least the following reasons:

9 a. Based my knowledge, training, and experience, I know that
10 computer files or remnants of such files may be recovered months or even years after
11 they have been downloaded onto a storage medium, deleted, or viewed via the Internet.
12 Electronic files downloaded to a storage medium can be stored for years at little or no
13 cost. Even when files have been deleted, this information can sometimes be recovered
14 months or years later with forensics tools. This is because when a person “deletes” a file
15 on a computer, the data contained in the files does not actually disappear; rather, that data
16 remains on the storage medium until it is overwritten by new data.

17 b. Therefore, deleted files, or remnants of deleted files, may reside in
18 free space or slack space—that is, in space on the storage medium that is not currently
19 being used by an active file—for long periods of time before they are overwritten. In
20 addition, a computer’s operating system may also keep a record of deleted data in “swap”
21 or “recovery” files.

22 c. Wholly apart from user-generated files, computer storage media—in
23 particular, computers’ internal hard drives—contain electronic evidence of how a
24 computer has been used, what it has been used for, and who has used it. To give a few
25 examples, this forensic evidence can take the form of operating system configurations,
26 artifacts from operating system or application operation, file system data structures, and
27 virtual memory “swap” paging files. Computer users typically do not erase or delete this
28 evidence, because special software is typically required for that task. However, it is
technically possible to delete this information.

d. Similarly, files that have been viewed via the Internet are sometimes
automatically downloaded into a temporary Internet directory or “cache.”

e. Digital storage devices may also be large in capacity, but small in
physical size. Because those who are in possession of such devices also tend to keep
them on their persons, especially when they may contain evidence of a crime. Digital

1 storage devices may be smaller than a postal stamp in size, and thus they may easily be
2 hidden in a person's pocket.

3 136. As further described in Attachment B, this application seeks permission to
4 locate not only computer files that might serve as direct evidence of the crimes described
5 on the warrant, but also for forensic electronic evidence that establishes how computers
6 were used, the purpose of their use, who used them, and when. There is probable cause
7 to believe that this forensic electronic evidence will be on digital devices found in **Target**
8 **Residence 3** and **Target Vehicle 2** because:

9 a. Data on the digital storage medium or digital devices can provide
10 evidence of a file that was once on the digital storage medium or digital devices but has
11 since been deleted or edited, or of a deleted portion of a file (such as a paragraph that has
12 been deleted from a word processing file). Virtual memory paging systems can leave
13 traces of information on the storage medium that show what tasks and processes were
14 recently active. Web browsers, e-mail programs, and chat programs store configuration
15 information on the storage medium that can reveal information such as online nicknames
16 and passwords. Operating systems can record additional information, such as the
17 attachment of peripherals, the attachment of USB flash storage devices or other external
18 storage media, and the times the computer was in use. Computer file systems can record
19 information about the dates files were created and the sequence in which they were
20 created, although this information can later be falsified.

21 b. As explained herein, information stored within a computer and other
22 electronic storage media may provide crucial evidence of the “who, what, why, when,
23 where, and how” of the criminal conduct under investigation, thus enabling the United
24 States to further establish and prove each element or alternatively, to exclude the innocent
25 from further suspicion. In my training and experience, information stored within a
26 computer or storage media (e.g. registry information, communications, images and
27 movies, transactional information, records of session times and durations, Internet
28 history, and anti-virus, spyware, and malware detection programs) can indicate who has
used or controlled the computer or storage media. This “user attribution” evidence is
analogous to the search of “indicia of occupancy” while executing a search warrant at a
residence. The existence or absence of anti-virus, spyware, and malware detection
programs may indicate whether the computer was remotely accessed, thus inculcating or
exculpating the computer owner. Further computer and storage media activity can
indicate how and when the computer or storage media was accessed or used. For
example, as described herein, computers typically contain information that log: computer
activity associated with user accounts and electronic storage media that connected with

1 the computer. Such information allows investigators to understand the chronological
2 context of computer or electronic storage media access, use, and events relating to the
3 crime under investigation. Additionally, some information stored within a computer or
4 electronic storage media may provide crucial evidence relating to the physical location of
5 other evidence and the suspect. For example, images stored on a computer may both
6 show a particular location and have geolocation information incorporated into its file
7 data. Such file data typically also contains information indicating when the file or image
8 was created. The existence of such image files, along with external device connection
9 logs, may also indicate the presence of additional electronic storage media (e.g., a digital
10 camera or cellular phone with an incorporated camera). The geographic and timeline
11 information described herein may either inculcate or exculpate the computer user. Last,
12 information stored within a computer may provide relevant insight into the computer
user's state of mind as it relates to the offense under investigation. For example,
information within the computer may indicate the owner's motive and intent to commit
the crime (e.g. Internet searches indicating criminal planning), or consciousness of guilt
(e.g., running a "wiping" program to destroy evidence on the computer or password
protecting/encrypting such evidence in an effort to conceal it from law enforcement).

13 c. A person with appropriate familiarity with how a computer works
14 can, after examining this forensic evidence in its proper content, draw conclusions about
how computers were used, the purpose of their use, who used them, and when.

15 d. The process of identifying the exact files, blocks, registry entries,
16 logs, or other forms of forensic evidence on a storage medium that are necessary to draw
17 an accurate conclusion is a dynamic process. While it is possible to specify in advance
18 the records to be sought, computer evidence is not always data that can be merely
19 reviewed by a review team and passed along to investigators. Whether data stored on a
20 computer is evidence may depend on other information stored on the computer and the
21 application of knowledge about how a computer behaves. Therefore, contextual
information necessary to understand other evidence also falls within the scope of the
warrant.

22 e. Further, in finding evidence of how a computer was used, the
23 purpose of its use, who used it, and when, sometimes it is necessary to establish that a
24 particular thing is not present on a storage medium. For example, the presence or
25 absence of counter-forensic programs or anti-virus programs (and associated data) may
be relevant to establishing a user's intent.

26 f. I know that when an individual uses a computer to conduct
27 cryptocurrency transactions, the individual's computer or digital device will generally
28 serve both as an instrumentality for committing the crime, and also as a storage medium
for evidence of the crime. The computer or digital device is an instrumentality of the

1 crime because it is used as a means of committing the criminal offense. The computer or
2 digital device is also likely to be a storage medium for evidence of crime. From my
3 training and experience, I believe that a computer or digital device used to commit a
4 crime of this type may contain: data that is evidence of how the computer was used; data
5 that was sent or received; notes as to how the criminal conduct was achieved; records of
6 text discussions about the crime; and other records that indicate the nature of the offense.

7 137. *Necessity of seizing or copying entire computers or storage medium.* In
8 most cases, a thorough search of a premises for information that might be stored on
9 digital storage media or other digital devices often requires the seizure of the digital
10 devices and digital storage media for later off-site review consistent with the warrant. In
11 lieu of removing storage media from the premises, it is sometimes possible to make an
12 image copy of storage media. Generally speaking, imaging is the taking of a complete
13 electronic copy of the digital media's data, including all hidden sectors and deleted files.
14 Either seizure or imaging is often necessary to ensure the accuracy and completeness of
15 data recorded on the storage media, and to prevent the loss of the data either from
16 accidental or intentional destruction. This is true because of the following:

17 a. *The time required for an examination.* As noted above, not all
18 evidence takes the form of documents and files that can be easily viewed on site.
19 Analyzing evidence of how a computer has been used, what it has been used for, and who
20 has used it requires considerable time, and taking that much time on premises could be
21 unreasonable. As explained above, because the warrant calls for forensic electronic
22 evidence, it is exceedingly likely that it will be necessary to thoroughly examine storage
23 media to obtain evidence. Storage media can store a large volume of information.
24 Reviewing that information for things described in the warrant can take weeks or months,
25 depending on the volume of data stored, and would be impractical and invasive to
26 attempt on-site.

27 b. *Technical requirements.* Computers can be configured in several
28 different ways, featuring a variety of different operating systems, application software,
and configurations. Therefore, searching them sometimes requires tools or knowledge
that might not be present on the search site. The vast array of computer hardware and
software available makes it difficult to know before a search what tools or knowledge
will be required to analyze the system and its data on-site. However, taking the storage
media off-site and reviewing it in a controlled environment will allow its examination
with the proper tools and knowledge.

1 c. *Variety of forms of electronic media.* Records sought under this
2 warrant could be stored in a variety of storage media formats that may require off-site
3 reviewing with specialized forensic tools.

4 138. Searching computer systems is a highly technical process that requires
5 specific expertise and specialized equipment. There are so many types of computer
6 hardware and software in use today that it is rarely possible to bring to the search site all
7 the necessary technical manuals and specialized equipment necessary to consult with
8 computer personnel who have expertise in the type of computer, operating system, or
9 software application being searched.

10 139. The analysis of computer systems and storage media often relies on
11 rigorous procedures designed to maintain the integrity of the evidence and to recover
12 “hidden,” mislabeled, deceptively named, erased, compressed, encrypted or password-
13 protected data, while reducing the likelihood of inadvertent or intentional loss or
14 modification of data. A controlled environment such as a laboratory, is typically required
15 to conduct such an analysis properly.

16 140. The volume of data stored on many computer systems and storage devices
17 will typically be so large that it will be highly impracticable to search for data during the
18 execution of the physical search of the premises. The hard drives commonly included in
19 desktop and laptop computers are capable of storing millions of pages of text.

20 141. A search of digital devices for evidence described in Attachment B may
21 require a range of data analysis techniques. In some cases, agents may recover evidence
22 with carefully targeted searches to locate evidence without requirement of a manual
23 search through unrelated materials that may be commingled with criminal evidence.
24 Agents may be able to execute a “keyword” search that searches through the files stored
25 in a digital device for special terms that appear only in the materials covered by the
26 warrant. Or, agents may be able to locate the materials covered by looking for a
27 particular directory or name. However, in other cases, such techniques may not yield the
28 evidence described in the warrant. Individuals may mislabel or hide files and directories;

1 encode communications to avoid using keywords; attempt to delete files to evade
2 detection; or take other steps designed to hide information from law enforcement
3 searches for information.

4 142. The search procedure of any digital device seized may include the
5 following on-site techniques to seize the evidence authorized in Attachment B:

6 a. On-site triage of computer systems to determine what, if any,
7 peripheral devices or digital storage units have been connected to such computer systems,
8 a preliminary scan of image files contained on such systems and digital storage devices to
9 help identify any other relevant evidence or co-conspirators.

10 b. On-site copying and analysis of volatile memory, which is usually
11 lost if a computer is powered down, and may contain information about how the
12 computer is being used, by whom, when and may contain information about encryption,
13 virtual machines, or stenography which will be lost if the computer is powered down.

14 c. On-site forensic imaging of any computers may be necessary for
15 computers or devices that may be partially or fully encrypted in order to preserve
16 unencrypted data that may, if not immediately imaged on-scene become encrypted and
17 accordingly become unavailable for any examination.

18 143. *Nature of examination.* Based on the foregoing, and consistent with Rule
19 41(e)(2)(B), the warrant I am applying for would permit seizing, imaging, or otherwise
20 copying storage media that reasonably appear to contain some or all of the evidence
21 described in the warrant, and would authorize a later review of the media or information
22 consistent with the warrant. The later review may require techniques, including but not
23 limited to computer-assisted scans of the entire medium, that might expose many parts of
24 a hard drive to human inspection in order to determine whether it is evidence described
25 by the warrant.

26 144. VEGA-FLORES is believed to share **Target Residence 3** with a second
27 individual, C.S. And as further noted above, C.S. is believed to have driven **Target**
28 **Vehicle 2**. As a result, it is possible that **Target Residence 3** and **Target Vehicle 2** will
contain cell phones that are predominantly used, and perhaps owned, by C.S. If it is
nonetheless determined that that it is possible that the things described in this warrant

1 could be found on any of those cell phones, the warrant applied for would permit the
2 seizure and review of those items as well.

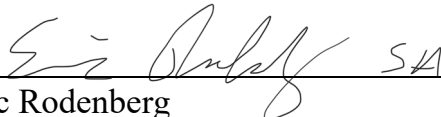
3 CONCLUSION

4 145. Based on the foregoing, I submit that probable cause exists to search
5 **Target Residence 3** and **Target Vehicle 2** for evidence, fruits, and instrumentalities of
6 violations of Title 21, United States Code, Sections 841(a)(1) and 846.

7 146. This affidavit and the requested warrant are being presented by reliable
8 electronic means, pursuant to Federal Rules of Criminal Procedure 4.1 and 41(d)(3).

9 147. This Court has jurisdiction to issue the requested warrant because it is "a
10 court of competent jurisdiction" as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a),
11 (b)(1)(A) & (c)(1)(A). Specifically, the Court is "a district court of the United States . . .
12 that - has jurisdiction over the offense being investigated." 18 U.S.C. § 2711(3)(A)(i).

13
14 DATED February 27, 2020.

15
16
17 
18 Eric Rodenberg
19 Special Agent
20 Drug Enforcement Administration

21 The above-named agent provided a sworn statement attesting to the truth of the
22 contents of the foregoing affidavit by telephone on this 27th day of February, 2020.

23 
24 Hon. DAVID W. CHRISTEL
25 United States Magistrate Judge
26
27
28

ATTACHMENT A-1

Location to be Searched

3703 Auburn Way S., Apartment G-101, Auburn, Washington, 98092

(Target Residence 3)

This location is an apartment unit located in the Clearwater Ridge Apartment Complex in Auburn, Washington. The complex is constituted of approximately 20 buildings, with approximately 4 units per building. Target Residence 3 is located on the first level on the far east side of a building that is approximately in the center of the apartment complex. The door to Target Residence 3 is brown in color and has the number "101" posted on the front.

And any cellular phones found therein.

ATTACHMENT A-2

Vehicle to be Searched

One Green Dodge Magnum with white racing stripes on its back, Washington license BPB0137, located in the parking lot of the apartment complex located at 3702 Auburn Way S., Auburn, Washington.

And any cellular phones found therein.

ATTACHMENT B**Items to be Seized**

Evidence, fruits, and instrumentalities of violations of Title 21, United States Code, Sections 841(a)(1) and 846 (distribution and possession with intent to distribute controlled substances, and conspiracy to commit these offenses) and occurring in or after January 2019, as follows:

1) Any suspected controlled substances, including, for example, methamphetamine and heroin;

2) Paraphernalia for packaging, smuggling, processing, diluting, manufacturing, weighing, and distributing controlled substances, for example: hidden compartments, scales, blenders, funnels, sifters, grinders, glass panes, mirrors, razor blades, plastic bags, heat sealing devices, and diluting agents such as inositol, vitamin B12, etc.;

3) Drug Transaction Records: Documents such as ledgers, receipts, notes, invoices, and similar items relating to the acquisition, transportation, and distribution of controlled substances;

4) Customer and Supplier Information: Items identifying drug customers and drug suppliers, such as telephone records, personal address books, correspondence, diaries, calendars, notes with phone numbers and names, "pay/owe sheets" with drug amounts and prices, maps or directions, and similar items;

5) Books, records, receipts, notes, ledgers, and other documents relating to the distribution of controlled substances and communications between members of the conspiracy;

6) Photographs, video tapes, digital cameras, and similar items depicting friends and relatives of the property occupants, or suspected buyers or sellers of controlled substances, controlled substances, and assets derived from the distribution of controlled substances;

7) Financial records relating to controlled substances income and expenditures of money and wealth, to wit: money orders, wire transfer records, cashier's checks and receipts, bank account records, passbooks, tax records, safe deposit box keys and records, checkbooks, and check registers, as well as precious metals and gems such as gold, silver, diamonds, etc.;

8) Items of personal property that tend to identify the person(s) in residence, occupancy, control, or ownership of the premises and/or vehicle, including

1 canceled mail, deeds, leases, rental agreements, photographs, personal telephone books,
2 diaries, utility and telephone bills, statements, identification documents, and keys;

3 9) Identification documents, including passports, visas, alien
4 registration cards, any travel documents, immigration documents, driver's licenses,
5 identification cards, and social security cards;

6 10) Documents indicating travel in interstate and foreign commerce, to
7 include airline tickets, notes and travel itineraries; airline schedules; gas receipts, bills;
8 charge card receipts; hotel, motel, and car rental statements; correspondence with travel
9 agencies and other travel related businesses; airline, rental car, and hotel frequent flier or
10 user cards and statements; passports and visas; telephone bills; photographs of foreign
11 locations; and papers relating to domestic and international travel;

12 11) Safes and locked storage containers, and the contents thereof that are
13 otherwise described in this document;

14 12) Latent prints and identifying material from items at the residences
15 and vehicles;

16 13) Stored footage from surveillance systems at the locations to be
17 searched which identifies the person(s) in residence, occupancy, control, or ownership of
18 the premises, and suspected buyers or sellers of controlled substances;

19 14) Documents and other items tending to show the existence of other
20 stored controlled substances, including rental agreements, receipts, keys, notes, and maps
21 specially concerning off-site storage rooms and/or lockers;

22 15) Weapons and other dangerous items, to include rifles, shotguns,
23 knives, and handguns, as well as ammunition, shell casings, bullets, magazines, cleaning
24 equipment, holsters, gun boxes and cases, trigger locks, gun safes, gun parts and tools,
25 targets, receipts, bills of sale, and body armor;

26 16) Address books, daily logs, daily telephone diaries, calendars, and
27 appointment books;

28 17) United States currency, gift cards, cash cards, and records relating to
income derived from, or used or intended to be used to facilitate, buying, selling, and/or
distributing controlled substances, and expenditures of money and wealth, for example,
money orders, wire transfers, cashier's checks and receipts, passbooks, checkbooks,
check registers, securities, precious metals, jewelry, automobiles, bank statements and
other financial instruments, including stocks or bonds in amounts indicative of the
proceeds of the aforementioned crimes of investigation;

1 18) Cell Phones: Cellular telephones and other communications devices
2 may be seized, and searched for the following items:

- 3 a. Assigned number and identifying telephone serial number (ESN,
4 MIN, IMSI, or IMEI);
5 b. Stored list of recent received, sent, and missed calls;
6 c. Stored contact information;
7 d. Stored photographs of controlled substances, currency, firearms
8 or other weapons, controlled substances cultivation, packaging,
9 and/or paraphernalia, evidence of suspected criminal activity,
10 including photographs of documents or other items described
11 above, and/or the user of the phone or suspected co-
12 conspirators, including any embedded GPS data associated with
13 those photographs; and
14 e. Stored text messages.

13 THE SEIZURE OF CELL PHONES AND/OR THEIR COMPONENTS AS SET
14 FORTH HEREIN IS SPECIFICALLY AUTHORIZED BY THIS SEARCH
15 WARRANT, NOT ONLY TO THE EXTENT THAT SUCH CELL PHONES
16 CONSTITUTE INSTRUMENTALITIES OF THE CRIMINAL ACTIVITY
17 DESCRIBED ABOVE, BUT ALSO FOR THE PURPOSE OF THE CONDUCTING
18 OFF-SITE EXAMINATIONS OF THEIR CONTENTS FOR EVIDENCE,
19 INSTRUMENTALITIES, OR FRUITS OF THE AFOREMENTIONED CRIMES.
20
21
22
23
24
25
26
27
28